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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,607	02/28/2000	Steven K. Elliot	ST9-99-024	8496

22462 7590 08/04/2004

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EXAMINER

NALVEN, ANDREW L

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

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20040720

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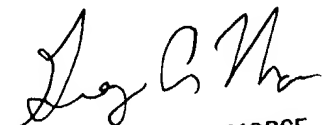
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Art Unit: 2134

1. Pursuant to 37 CFR 1.181(c), the paper of 6/11/2004, styled a petition to invoke the supervisory authority of the Commissioner, has been treated as a request for reconsideration of the finality of the office action of 6/4/2004. While the MPEP is not entirely clear on the subject, it appears that the preferred method for review of the finality of an office action is to request reconsideration of the finality by the examiner prior to a formal petition. See MPEP 706.07 (c) and (d), which contemplates that the primary examiner will reconsider the finality of an action. It is clear that that reconsideration is petitionable.
2. Applicant alludes to the incorporation of the subject matter of former dependent Claim 5 into independent Claim 1. As applicant states, this incorporation does not raise new issues that necessitated the new grounds of rejection of amended Claim 1. Accordingly, the action of 6/4/2004 should not have been made final. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. See MPEP 706/07(d).
3. Applicant's period for response to the (now non-final) rejection of 6/4/2004 continues to run from its mailing date. See 37 CFR 1.181(f).

Any inquiry concerning this communication should be directed to Gregory A. Morse at telephone number 703-308-4789.


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